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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,947	11/06/2001	Mark Haines	40655.7600	5619

20322 7590 10/04/2006

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EXAMINER	
ALVAREZ, RAQUEL	

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/010,947	HAINES ET AL.	
	Examiner	Art Unit	
	Raquel Alvarez	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/29/02*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to communication filed on 7/24/2006.

2. Claims 1-13 and 22 are presented for examination.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-13 and 22 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-67 of copending Application No. 09/836,213. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application further recites conducting a search for said manufacturer across a plurality of retailers. Official notice is taken that it is old and well known for manufacturers to conduct searches of retailers in order to let manufacturers search for the retailers where they want to market

their products or services. It would have been obvious so a person of ordinary skill in the art at the time of Applicant's invention to have included conducting a search for said manufacturer across a plurality of retailers in order to obtain the above mentioned advantage.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-2, 6-10 and 22 are rejected under 35 U.S.C. 102(a) as being anticipated by Deaton et al. (6,292,765 hereinafter Deaton).

With respect to claims 1-2, 7-10, 22 a method for facilitating a purchase transaction (Abstract). Receiving from a consumer a retailer item identifier (col. 4, lines 15-36 and col. 8, lines 50-64); associating said retailer item identifier with a manufacturer item identifier (col. 9, lines 24-30); conducting a search for said manufacturer item identifier across a plurality of retailers (i.e. conducting retailers stores in which to initiate offers)(col. 9, lines 31-49); facilitating a purchase transaction between

said consumer and one of said plurality of retailers (col. 10, lines 5-17 and col. 11, lines 11-21).

With respect to claim 6, Deaton teaches facilitating a purchase comprises receiving a stored transaction card number (col. 7, lines 60-65).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 3-5, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deaton.

Claims 3 and 4 further recite receiving the search criteria from a consumer including a delivery time and a price. Deaton teaches the manufacturer conducting a search for the retailers in which to initiate their offers (col. 9, lines 31-49). Deaton is silent as to the customer initiating the search including a delivery time and a price. Official notice is taken that it is old and well known for consumers to conduct searches in order to for the customer to receive the information desired. For example, in E-bay the customer searches for the items of choice and selects a price and a preferred delivery time. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included receiving the search criteria from a

consumer including a delivery time and a price in order to accommodate the customer based on the individual's needs.

Claims 5, 11-12 further recites receiving a pre-authorization to automatically purchase an item from a retailer and receiving a confirmation that the transaction has been completed. Official notice is taken that it is old and well known to pre authorize transactions that meet certain criteria. For example, E-bay automatically enters a transaction for a user if the user criteria is met. The customer sets a pre-authorize maximum price that he is willing to pay for an item and if the item is at the particular price, the user's credit card is charged with the item's amount. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included receiving a pre-authorization to automatically purchase an item from a retailer and receiving a confirmation that the transaction has been completed to provide convenience and speed the process of purchase.

Claim is rejected under the same rationale as claim 4, rejected above.

Point of contact

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raquel Alvarez
Primary Examiner
Art Unit 3622

R.A.
9/21/2006